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Attorneys for Plaintiff,
MATTHEW CIVITANO

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

MATTHEW CIVITANO,) Case No.: '11CV2761 BTM JMA
Plaintiffs,)
) **COMPLAINT AND DEMAND FOR**
v.) **JURY TRIAL**
GC SERVICES, LP,)
Defendant.)
) **(Unlawful Debt Collection Practices)**

VERIFIED COMPLAINT

MATTHEW CIVITANO (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against GC SERVICES, LP (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).
2. Count II of the Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code §1788 et seq. (RFDCPA).

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.

4. Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in San Diego, San Diego County, California.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)* and *Cal. Civ. Code § 1788.2(h)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)* and *Cal. Civ. Code § 1788.2(c)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a national company with offices in Houston, Texas.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers

FACTUAL ALLEGATIONS

11. Beginning in October 2011, Defendant began placing collection calls to Plaintiff seeking and demanding payment of an alleged debt owed for a repossessed vehicle.
12. Defendant calls Plaintiff at (914) 403-2045 from (210) 366-4397.
13. On October 20, 2011, Plaintiff spoke with Defendant's agent disputing the alleged debt.
14. During that same conversation, Plaintiff informed Defendant's agent that he now resides in California.
15. On October 21, 2011, Defendant left a voicemail for Plaintiff without meaningfully disclosing the identity of its company and that it is a debt collector. (See Exhibit A).
16. On October 31, 2011, Defendant called Plaintiff at 5:26 AM PST and again at 1:16 PM PST. (See Exhibit B).

17. On November 2, 2011, Defendant called Plaintiff at 5:34 AM. (See Exhibit B).
18. During that call, Defendant left a voicemail again without meaningfully disclosing the identity of its company and that it is a debt collector. (See Exhibit A).
19. On November 9, 2011, Defendant called Plaintiff at 5:09 AM PST and left a voicemail to call back (800) 431-7358. (See Exhibit B).
20. On November 10, 2011, Defendant called Plaintiff at 6:35 AM PST. (See Exhibit B).
21. During that call, Defendant again left a voicemail again without meaningfully disclosing the identity of its company and that it is a debt collector. (See Exhibit A).

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

22. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(1) of the FDCPA by calling Plaintiff before 8AM.
- b. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to abuse and harass Plaintiff.
- c. Defendant violated §1692d(6) of the FDCPA by placing calls to Plaintiff without meaningfully disclosing its identity.
- d. Defendant violated §1692e(11) of the FDCPA by failing to provide the requisite warnings in its communications with Plaintiff, to wit: "This is an attempt to collect a debt. This communication is from a debt collector."

WHEREFORE, Plaintiff, MATTHEW CIVITANO, respectfully requests judgment be entered against Defendant, GC SERVICES, LP, for the following:

23. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C.

U.S.C. 1692k,

24. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
15 U.S.C. 1692k

25. Any other relief that this Honorable Court deems appropriate.

COUNT II
**DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT**

26. Plaintiff repeats and re-alleges all of the allegations in Count I of Plaintiff's Complaint as the allegations in Count II of Plaintiff's Complaint.

27. Defendant violated the RFDCPA based on the following:

- a. Defendant violated the §1788.11 of the RFDCPA by not meaningfully disclosing its identity;
- b. Defendant violated the §1788.17 of the RFDCPA by continuously failing to comply with the statutory regulations contained within the FDCPA, 15 U.S.C. § 1692 et seq. to wit: Sections 1692c, 1692d and 1692e.

WHEREFORE, MATTHEW CIVITANO, respectfully requests judgment be entered against Defendant, GC SERVICES, LP, for the following:

28. Statutory damages of \$1000.00 pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code §1788.30(b)*,

29. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt Collection Practices Act, *Cal. Civ. Code* § 1788.30(c), and

30. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MATTHEW CIVITANO, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: November 28, 2011

KROHN & MOSS, LTD.

By:/s/Nicholas J. Bontrager
Nicholas J. Bontrager
Attorney for Plaintiff

1 **VERIFICATION OF COMPLAINT AND CERTIFICATION**

2 STATE OF CALIFORNIA

3 Plaintiff, MATTHEW CIVITANO, states as follows:

4 1. I am the Plaintiff in this civil proceeding.

5 2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe
 that all of the facts contained in it are true, to the best of my knowledge, information
 and belief formed after reasonable inquiry.

6 3. I believe that this civil Complaint is well grounded in fact and warranted by existing
 law or by a good faith argument for the extension, modification or reversal of existing
 law.

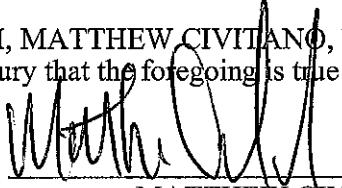
7 4. I believe that this civil Complaint is not interposed for any improper purpose, such as
 to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
 needless increase in the cost of litigation to any Defendant(s), named in the
 Complaint.

8 5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

9

10 Pursuant to 28 U.S.C. § 1746(2), I, MATTHEW CIVITANO, hereby declare (or
11 certify, verify or state) under penalty of perjury that the foregoing is true and correct.

12 DATE: 11/14/2011



MATTHEW CIVITANO

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

MATTHEW CIVITANO,

(b) County of Residence of First Listed Plaintiff San Diego (CA)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Krohn & Moss, Ltd. Nicholas J. Bontrager (323) 988-2400
10474 Santa Monica Blvd., Suite 401 Los Angeles, CA 90025**DEFENDANTS**

GC SERVICES, LP,

County of Residence of First Listed Defendant Houston (TX)

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.**'11CV2761 BTM JMA**

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Incorporated or Principal Place of Business In This State			Incorporated and Principal Place of Business In Another State		
<input type="checkbox"/> 3	<input type="checkbox"/>	<input type="checkbox"/> 3	<input type="checkbox"/> 5	<input type="checkbox"/>	<input type="checkbox"/> 5
Foreign Nation			<input type="checkbox"/> 6	<input type="checkbox"/>	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
15 USC 1692 et seq.**VI. CAUSE OF ACTION**Brief description of cause:
Unlawful and abusive debt collection practices**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

11/28/2011

/s/Nicholas J. Bontrager

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE